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DECLARATION OF
RESTRICTIVE COVENANTS
SHOOT OUT MOUNTAIN

THIS DECLARATION is made on February 21, 1972, by J. C. PROPERTIES, INC., a Florida corporation.

RECITALS

J. C. Properties, Inc., a Florida corporation, is the owner and developer of that certain real property located in Mitchell County, State of North Carolina, known as Shoot Out Mountain (the Development), described in the Supplemental Declaration, attached hereto as Exhibit "A" and made a part hereof.

J. C. Properties, Inc. intends to sell and convey the lots and parcels situated within the Development and before doing so, desires to impose upon them mutual and beneficial restrictions, covenants, equitable servitudes and charges under a general plan or scheme of improvements for the benefit of all of the Lots and Parcels in the Development and the owners and future owners thereof.

Now, therefore, J. C. Properties, Inc. declares that all of the Lots and Parcels in the Development are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the provisions of this Declaration, all of which are declared and agreed to be in furtherance of a plan for the development, improvement and sale of said Lots and Parcels and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness thereof. The provisions of this Declaration are intended to create mutual equitable servitudes upon each of said Lots and Parcels in favor of each and all other Lots and Parcels; to create reciprocal rights between the respective owners of all such Lots and Parcels; to create privity of contract and estate between the grantees of such Lots, their heirs, successors and assigns operate as covenants running with the land for the benefit of each and all other such Lots and Parcels in the Development and their respective owners, present and future.

I. Definitions. The following terms as used in this Declaration are defined as follows:

- (a) "Board" means the Officers of J. C. Properties, Inc.
- (b) "By-Laws" means the By-Laws of the Corporation.
- (c) "Common Area" means all of the real property designated as such in the Supplemental Declaration; all real property which may be later annexed to the Development as Common Area; and, all real property acquired by the Corporation whether from the Declaration or otherwise, together in each instance with all improvements which may be at any time constructed thereon, including, but not limited to, recreational and community facilities, lakes, parks, and streets.
- (d) "Corporation" means the J. C. Properties, Inc., a Florida corporation.
- (e) "Declarant" means J. C. Properties, Inc., successors and assigns.

(f) "Declaration" means this Declaration of Restrictive Covenants for Shoot Out Mountain, dated the 21st day of February, 1972, as the same may be supplemented or amended from time to time.

(g) "Development" means Shoot Out Mountain as the same may be shown on the maps thereof recorded from time to time.

(h) "Improvement" means all buildings, out buildings, streets, roads, driveways, parking areas, fences, retaining and other walls, hedges, poles, antennae and any other structure of any type or kind.

(i) "Lot" means any numbered lot designated on the plat or any apartment or living unit in a multiple family dwelling.

(j) "Owner" means:

1. Any person, including J. C. Properties, Inc., who holds fee simple title to any lot.

2. Any person or legal entity who has contracted to purchase fee simple title to a lot pursuant to a written agreement, in which case seller under said agreement shall cease to be the owner while said agreement is in effect.

(k) "Parcel" means any named, lettered tract shown on the plat.

(l) "Plat" means the maps or plats of Shoot Out Mountain as they are from time to time recorded.

(m) "Single Family Dwelling" means a residential dwelling for one or more persons, each related to the other by blood, marriage or legal adoption, or a group of not more than three (3) adult persons not so related together with his or their domestic servants maintaining a common household in such dwelling, which dwelling is constructed on a lot designated in the Supplemental Declaration as a single family residential lot.

(n) "Supplemental Declaration" means:

1. The recorded Supplemental Declaration of the Declarant attached hereto as Exhibit "A", or,

2. In the case of real property being annexed to Shoot Out Mountain, the recorded Supplemental Declaration of Declarant which incorporates the provisions of this Declaration therein by reference.

In either event the Supplemental Declaration shall include a description of the real property in Shoot Out Mountain, subject to the provisions of this Declaration and shall designate the permissive uses of such property.

II. Land Use. Parcels in the Development shall be designated in the Supplemental Declaration as to their permissible uses and shall thereupon become subject to the restrictive or other provisions of this Declaration relating to such uses. In the event a use is designated for which no such provisions are contained herein (e.g., commercial, governmental, school, etc.), the same may be set forth in such Supplemental Declaration.

A. Single Family Residential. Only single family dwellings and such outbuildings as are usually accessory thereto shall be permitted on any Lot designated as single family residential. The following restrictions shall apply specifically to such lots.

1. Minimum Area. Each dwelling constructed shall have fully enclosed floor area (exclusive of roofed or unroofed porches, terraces, garages, carports or other outbuildings) with not less than 350 square feet.

2. Set Backs. Each dwelling shall be at least:

- (a) Thirty-three (33) feet from the front Lot line;
- (b) Twenty-five (25) feet or 25% of the depth of the Lot, whichever is greater from the rear Lot line;
- (c) And Five (5) feet from side Lot lines.

NOTE: If the above Set Backs constitute a building hardship because of terrain, or unforeseen reasons, a variance may be approved as a sensible solution by the Board.

B. Multiple Family Residential. Only multiple family dwellings and such outbuildings as are usually accessory thereto shall be permitted on any Lot or Parcel designated as multiple family residential. The following restrictions shall apply specifically to such Lots or Parcels:

1. Zoning. Multiple family residential use shall be approved by the appropriate governmental authorities.

2. Minimum Areas. There shall not be more than one dwelling unit for each 1,500 square feet of land area in such Lot or Parcel and the amount of fully enclosed floor area devoted to living purposes in each unit shall not be less than 350 square feet.

3. Type of Construction. Subject to the approval of the Committee, multiple family dwellings may be of single or multiple story construction, and may be detached or joined by common walls.

C. Common Areas. All Lots or Parcels in the Development designated as Common Areas are and shall remain private property and Declarant's recordation of a Plat shall not be construed as a dedication to the public or any such Common Areas located therein.

1. Rules and Regulations. The use and enjoyment of Common Areas, such as Lakes, Ponds, etc., and the improvements shall be subject to the rules, as posted, by the Board, in each specific area or in the Shoot Out Mountain Sales Office.

2. Maintenance. Maintenance of common property and repairs to any improvements thereon shall be the obligation and responsibility of Declarant until conveyance to the Property Owners; thereafter the Property Owners shall have sole responsibility therefor.

3. Subsequent Dedication. At any time after conveyance to the Property Owners of any Common Areas the Property Owners may, upon the affirmative vote of two-thirds of its members entitled to vote, offer any such property for dedication to public use. Such offer shall be subject to acceptance by the appropriate governmental authority pursuant to its then applicable standards.

4. Improvements. All improvements must be approved by the Committee as hereinafter provided.

III. Residential Restrictions. The following shall be applicable to all Lots and Parcels within the Development designated as residential in character, whether single family or multiple family, and each Owner, as to his Lot or Parcel, covenants to observe and perform the same:

A. Accessory Outbuildings. Without the approval of the Board no accessory outbuildings shall be erected on any Tract or Parcel prior to the erection thereon of a dwelling. In no event shall any such accessory outbuildings, partially completed or temporary structure, ever be used for human occupancy or habitation.

B. Completion of Construction. Construction of any improvements, once commenced, shall be completed within one year.

C. Prohibition Against Used Structures. Without the approval of the Board no used buildings or structures, intended for use as a dwelling, shall be placed on any Tract.

D. Maintenance of Tracts. All Tracts and Parcels, whether occupied or unoccupied, and any improvements placed thereon, shall at all times be maintained in such manner as to prevent their becoming unsightly, unsanitary or a hazard to health.

E. Disposal of Sanitary Waste. No outside toilet shall be constructed on any Tract. All plumbing fixtures, dishwashers, toilets or sewage disposal systems shall be connected to a septic tank or other sewage system approved by the Board and the appropriate governmental authority.

F. Nuisances. No noxious or offensive activities or nuisances shall be permitted on any Tract.

G. Signs. No person, except the Declarant, shall erect or maintain upon any Tract or Improvement any sign or advertisement, without approval of the Board.

H. Animals. No animals shall be kept or maintained on any Tract except the usual household pets which shall be kept reasonably confined so as not to become a nuisance.

I. Garbage and Refuse Disposal. No owner shall burn, bury or dump trash, garbage or other like household refuse except in designated areas, nor shall any Owner accumulate on his Tract junked vehicles or litter, refuse or garbage, except in receptacles provided for such purposes.

J. Overnight Camping. Overnight camping will be permitted only if camper or trailer is a self contained unit with sewage disposal holding tank, unless such toilet facilities are connected to a septic tank.

K. Temporary Toilets. Temporary toilet facilities, with septic tank may be constructed under supervision manager for a period of one year while building, or at the discretion of the Board.

L. Holding Tanks. Chemical or non chemical holding tanks must not be emptied on premises, unless a station is designated.

M. Removal of Trees. No tree over six inches in diameter may be removed from any Tract without the consent of the Board, with the exception of any tree that may interfere with building or endanger human life. This rule is an effort to protect the overall beauty of the property.

N. Limited Access. There shall be no access to any Tract on the perimeter of the Development except from designated streets or roads within the Development.

O. Ditches and Swales. Culverts have been placed under the roads to accommodate rainfall and spring water drainage from individual tracts. If the natural and normal flow of this water is disturbed on said tract the Owner shall provide such alterations as needed to insure a sound road bed.

P. Resubdivision of Tracts. No Tract shall be further subdivided except those designated multiple family residential and then only to the extent required or permitted by governmental authority.

Q. Drilling and Mining. No drilling, refining, quarrying or mining operations of any kind shall be permitted on any Tract.

R. Water Supply. The declarant maintains the right to tap and remove by sufficiently submerged pipe line surplus water from natural springs located on any individual tract; but only for the benefit of other property owners or common areas.

IV. Lake and Stream Tracts.

A. Ownership of Tracts Fronting Lakes and Streams. The boundary of any tract shown on the Plat as being contiguous to a lake shall be the shoreline thereof as said shoreline would be if the water level in said Lake were one vertical foot above the normal lake elevation.

B. Limitations of Water Rights. The declarant declares all Ponds, Lakes and Streams as common areas unless otherwise designated on Plat.

V. Assessments.

A. Maintenance: Roads and Common Areas. Pursuant to the powers granted to it in its Articles and By-Laws, the Corporation is hereby expressly authorized and empowered to levy annual assessments paid in advance against all Tracts in the Development, not to exceed \$10.00 for each residential tract or \$25.00 for each commercial tract. Provided, however, except as may be otherwise indicated, no assessment shall be levied against Tracts owned by Declarant.

B. Collection and Lien. The amount of the assessment levied by the Corporation shall be paid to it on or before the date or dates fixed by resolution of the Board. If not so paid, the amount of such assessment, plus any other charges thereon, including interest at the maximum limit provided by law per annum from date of delinquency and costs of collection, including attorney's fees, if any, shall constitute and become a lien on the Tract so assessed when the Board causes to be recorded in the office of the appropriate County Recorder of Deeds, a notice of assessment which shall state the amount of such assessment and such other charges and a description of the Tract which has been assessed. Such notice shall be signed by the Secretary of the Corporation on behalf of the Corporation. Upon payment of said assessment and charges, or other satisfaction thereof, the Board shall, within a reasonable time, cause to be recorded a further notice stating the satisfaction and the release of said lien.

C. Priority of Lien. Conveyance of any Tract shall not affect any lien for assessments provided herein. Such lien shall be prior to all other liens recorded subsequent to said notice of assessment.

D. Enforcement. The lien provided for herein may be foreclosed by suit by the Corporation in like manner as a mortgage and, in such event, the Corporation may be a bidder at the foreclosure sale. The Corporation may also pursue any other remedy against any owner owing money to it which is available to it by law or equity for the collection of debt.

E. Proof of Payment. Upon request, the Corporation shall furnish a statement certifying that all assessments then due have been paid or indicating the amount then due.

F. Suspension. The Corporation shall not be required to transfer memberships on its books or to allow the exercise of any rights or privileges of membership on account thereof to any owner or to any persons claiming under them unless or until all assessments and charges to which they are subject have been paid.

VI. Easements.

A. Reservations. The following easements over each Tract and the right to ingress or egress to the extent reasonably necessary to exercise such easements, are reserved to Declarant and its licensees:

1. Utilities. A five foot wide strip running along the inside of all Tract lines except those Tract lines coincident with road right-of-way lines, in which case such strip shall be 10 feet wide, for the installation, maintenance and operation of utilities, including radio and TV transmission cables, and the accessory right to locate guy wires, braces or anchors or to cut, trim or remove trees and plantings wherever necessary upon such Tracts in connection with such installation, maintenance and operation.

2. Shoreline Maintenance. A 15 foot wide strip running along the inside of all Tract lines coincident with the shoreline of any lake or watercourse in the Development for the purpose of shoreline maintenance.

3. Private Roads. An easement on, over and under all roads in the Development for the purpose of installing, maintaining and operating utilities thereon or thereunder; for the purposes of drainage control; for access to any Tract; and for purposes of maintenance of said roads.

4. Other Easements. Any other easements shown on the Plat.

B. Use of and Maintenance by Owners. No structures, plantings or other material shall be placed or permitted to remain or other activities undertaken thereon which may damage or interfere with the use of said easements for the purpose herein set forth. Improvements within such areas shall be maintained by the Owner except those for which a public authority or utility company is responsible.

C. Liability for use of easements. No Owner shall have any claim or cause of action against Declarant or its licensees arising out of the exercise or nonexercise of any easement reserved hereunder or shown on the Plat except in cases of willful or wanton misconduct.

VII. Retained Parcels. Declarant may retain ownership of certain Tracts within the Development shown on the Plats, for use for commercial purposes. Declarant reserves the right and privilege to develop said Tracts for such commercial purposes as it may deem appropriate and compatible with the Development. It further reserves the right to conduct all commercial enterprises of any type or kind whatsoever which may at any time be lawfully conducted within the Development. This reservation shall include the right to conduct commercial enterprises on Common Areas both before and after transfer to the Corporation and right to free and unrestricted access thereto for such purposes. These rights may be exercised by Declarant or assigned by it to whomever it may see fit. At the sole election of Declarant, those rights may be assigned to the Corporation at any time hereafter upon such terms and conditions as Declarant may deem appropriate at the time of assignment, but unless the Corporation acting through its Board, shall otherwise agree, such assignment shall be without cost to the Corporation and shall be free and clear of all liens and encumbrances (other than liens for taxes), but subject to such easements, rights-of-way, and restrictions as then appear of record. Any assignment of these rights, whether to the Corporation or otherwise may be of all or any part of said rights and may include transfer or conveyance of some or all of said Tracts.

Declarant reserves for itself, agents, employees, successors and assigns full rights of access across all Common Areas required to implement this reservation. By reservation of these rights, Declarant assumes no affirmative duties to establish or maintain any commercial enterprise whatsoever.

VIII. Annexation.

A. Property to be Annexed. Declarant may, from time to time and in its sole discretion, annex to the Development any other real property owned by Declarant which is contiguous or adjacent to or in the immediate vicinity of the Development.

B. Manner of Annexation. Declarant shall effect such annexation by recording a Plat of the real property to be annexed and by recording a Supplemental Declaration which shall:

1. Describe the real property being annexed and designate the permissible uses thereof;
2. Set forth any new or modified restrictions or covenants which may be applicable to such annexed property, including limited or restrictive uses of Common Areas; and
3. Declare that such annexed property is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the provisions of this Declaration. Upon the recording of such Plat and Supplemental Declaration, the annexed area shall become a part of the Development, as fully as if such area were part of the Development on the date of recording of this Declaration.

IX. Remedies.

A. Enforcement. Declarant and each person to whose benefit this Declaration inures, including the Corporation, may proceed at law or in equity to prevent the occurrence, continuation or violation of any provisions of this Declaration, and the court in such action may award the successful party reasonable expenses in prosecuting such action, including attorney's fees.

B. Suspension of Privileges. The Board may suspend, all voting rights, if any, and all rights to use the Corporation's Common Areas of any Owner for any period during which any Corporation assessment against such Owner remains unpaid, or during the period of any continuing violation of the provisions of this Declaration by such Owner after the existence thereof has been declared by the Board.

C. Cumulative Rights. Remedies specified herein are cumulative and any specifications of them shall not be taken to preclude an aggrieved party's resort to any other remedy at law or in equity.

No delay or failure on the part of an aggrieved party to invoke an available remedy in respect of a violation of any provision of this Declaration shall be held to be a waiver by that party of any right available to him upon the recurrence or continuance of said violation or the occurrence of a different violation.

X. Grantee's Acceptance.

Each grantee or purchaser of any Lot or Parcel shall, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent Owner of such Lot or Parcel, accept such deed or contract upon and subject to each and all of the provisions of this Declaration and to the jurisdiction, rights, powers, privileges and immunities of Declarant and of the Association. By such acceptance such grantee or purchaser shall for himself, his heirs, devisees, personal representatives, grantees, successors and assigns, lessees and/or lessors, covenant, consent and agree to and with Declarant and the grantee or purchaser of each other Lot to keep, observe, comply with and perform the covenants, conditions and restrictions contained in this Declaration.

XI. Suspension of Restrictions. The provisions on improvements, use and occupancy set forth herein shall be suspended as to any Lot, Parcel or other area while and so long as the same is owned by or leased to the State of North Carolina or any governmental agency, public or private utility, whenever and to the extent, but only to the extent, that such provisions shall prevent the reasonable use of such Lot, Parcel or area for said purposes. On cessation of such use, such provisions shall become applicable again in their entirety. While owning or leasing and using, such Owner shall have no rights as a member of the Corporation, nor shall it be liable for any Corporation assessments.

XII. Severability. Every provision of this Declaration is hereby declared to be independent of and severable from every other provision hereof. If any provision hereof shall be held by a court of competent jurisdiction to be invalid, or unenforceable, all remaining provisions shall continue unimpaired and in full force and effect.

XIII. Captions. Paragraph captions in this Declaration are for convenience only and do not in any way limit or amplify the terms or provisions hereof.

XIV. Term and Amendment. The provisions of this Declaration shall affect and run with the land and shall exist and be binding upon all parties claiming an interest in the Development until January 1, 1995, after which time the same may be extended for successive periods of 10 years each upon the affirmative vote of a majority of the owners of all lots in the Development entitled to vote. This Declaration may be

amended by the affirmative vote of a majority of the Owners of all lots in the Development entitled to vote recording an amendment to this Declaration duly executed by (a) the requisite number of such Owners required to effect such amendment or (b) by the Corporation, in which latter case such amendment shall have attached to it a copy of the resolution of the Board attesting to the affirmative action of the requisite number of such Owners to effect such Amendment, certified by the Secretary of the Corporation.

J. C. PROPERTIES, INC.

Witnesses:

Christy C. Amm

By: Joseph E. Cotton, Jr.
Joseph E. Cotton, Jr., President

Attest: Helen W. Mitchell
Secretary

STATE OF FLORIDA

COUNTY OF DADE

I HEREBY CERTIFY, that on this day, before me, the undersigned authority, personally appeared JOSEPH E. COTTON, JR., and HELEN W. MITCHELL, to me known by me to be the President and Secretary respectively, of J. C. PROPERTIES, INC., and who acknowledged executing the foregoing Declaration of Restrictions freely and voluntarily under the authority vested in them by said corporation and that the seal affixed thereto is the true corporate seal of the corporation, and the execution of said instrument is the deed and act of the corporation.

WITNESS my hand and official seal in the County and State last aforesaid, this 25th day of FEBRUARY, A. D. 1972.

Louise Edwards
Notary Public, State of Florida
MY COMMISSION EXPIRES 02/25, 1975
My commission expires

STATE OF NORTH CAROLINA 11/11 COUNTY

The foregoing certificate(s) of Louise Edwards

Notary Public, State of Florida at Large

is (are) certified to be correct. This instrument was presented for registration this day and hour and duly recorded in the office of

the Register of Deeds of Mitchell County, North Carolina

in Book 102, Page 559.

This 1st day of March, A.D., 1972, at

11:00 o'clock A.-M.

By: John Strawn
Assistant Register of Deeds